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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2011 JAN 14 AM 8:31

DEPUTY CLERK 

ROBERT RODRIGUEZ TREVINO,)
ID #729766,)
Gloria Trevino Turner, As Next Friend)
Of Robert Rodriguez Trevino)
Petitioners,)
)
Vs.)
)
RICK THALER,)
Respondent.)

No. 3:10-CV-2413-D-BH

MOTION TO PROCEED AS NEXT FRIEND FOR PETITIONER

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, Robert Rodriguez Trevino, is a citizen of the United States of America of Hispanic descent. He is also a Totally Disabled Honorably Discharged Veteran of the United States Armed Services and the victim of the classic Kangaroo Court proceeding in Waxahachie, Ellis County, Texas and has been unlawfully incarcerated at the Texas Department of Criminal Justice for over fifteen years and is presently being held at the Jester IV Psychiatric Unit by Respondent, Rick Thaler, illegally in further violation of Petitioner's rights under the Constitution of the United States of America. A Petition for Writ of Habeas Corpus was previously filed with this Court.

Petitioner, Gloria Trevino Turner, has Petitioner, Robert Rodriguez Trevino's Power of Attorney and files this **Motion to Proceed as Next Friend for Petitioner** pursuant to 28 U.S.C. Sec. 2242 and in support would show the Court the following;

Petitioner, Robert Rodriguez Trevino, suffers from chronic **Post Traumatic Stress Disorder**,

Major Depression and Schizophrenia and is too ill to represent himself. To many concussion blasts, the trauma he suffered in Vietnam, coupled with the traumatic experience of being abducted out of his home at gun point in the cover of darkness, **RAILROADED** on trumped-up charges and unlawfully imprisoned for life in an extremely dangerous and life-threatening prison environment has undoubtedly cause him to suffer serious long-term effects. Petitioner suffers from numerous psychological problems that are chronic in nature and has a hard time staying focused or concentrating and the medication he is taking further clouds his mind and makes him to weak to write and he can barely sign his name. Even Petitioner, Gloria Trevino Turner, is overwhelmed with the challenges they are facing.

Petitioner, Gloria Trevino Turner, is the sister of Petitioner, Robert Rodriguez Trevino. She loves her brother and visits him every weekend at the psychiatric unit of the prison where he is housed. Petitioner, Turner, has personal knowledge of the facts surrounding Petitioner's case and of his predicament and she knows that her brother is innocent and that he was shamefully maliciously prosecuted in blatant violation of his civil and human rights. Petitioner, Turner, also lives on a fixed income of VA Compensation and Social Security and she has been borrowing money against her home to pay for her brother's legal defense because Petitioner Trevino has no money of his own and cannot afford to hire an attorney to represent him and Petitioner, Turner cannot sell or borrow money on Petitioner, Trevino's Ellis County property and the \$195.00 VA Compensation her brother gets monthly is not enough to retain or hire an attorney and no one will take this case Pro Bono and Petitioners strongly feel they are entitle to relief. Petitioner, Turner is the one who has been deeply involved in talking to and hiring the lawyers to represent Robert and these lawless and unscrupulous lawyers have taken unfair advantage of her distress state and maliciously defrauded her out of over \$25,000.00 on

the guise of helping free her brother, the Petitioner, Trevino from unlawful imprisonment and she cannot afford to hire another attorney and has respectfully requested that in the interest of justice this Honorable Court appoint an attorney to represent the Petitioner, Robert Rodriguez Trevino.

FURTHERMORE, Petitioner, Gloria Trevino Turner is herself a Disabled Honorably Discharged Veteran of the United States Armed Services and completely understands the devastating impact and extreme psychological and financial hardship maliciously inflicted on her brother, her family and herself by the Texas Criminal Justice System and is truly dedicated to Justice for her brother, Petitioner, Robert Rodriguez Trevino and in further support for her **Motion To Proceed As Next Friend For Petitioner**, submits the following;

1. **"Exhibit A," Dr. Karen Brown's Report dated, Oct. 21, 2010.**
2. **"Exhibit B," Dr. Karen Brown's Report dated, Jan. 10, 2011.**
3. **"Exhibit C," Disabled American Veterans Letter dated, Jan. 11, 2011.**

WHEREFORE, Petitioners pray that in the best interest of Justice this Honorable Court grants the relief as follows:

1. **Grant Petitioner, Gloria Trevino Turner, Next Friend status, as Next Friend of Robert Rodriguez Trevino.**
2. **Grant Petitioner, Robert Rodriguez Trevino's Motion for Appointment of Counsel.**
3. **Order that Petitioner Robert Rodriguez Trevino be released from Respondents' unlawful custody;**
4. **Such other relief as the Court may deem necessary and appropriate.**

Dated: January 11th, 2011

Respectfully submitted,
Robert Rodriguez Trevino and
Gloria Trevino Turner, as Next Friend

By:

Gloria Trevino Turner

Gloria Trevino Turner
12526 Olympia Drive
Houston, Texas 77077
H-(713)920-9519
C-(713)309-5962

VERIFICATION

STATE OF TEXAS)
COUNTY OF HARRIS)

Gloria Trevino Turner being duly sworn deposes and says:

1. I am Gloria Trevino Turner, Next Friend for Petitioner Robert Rodriguez Trevino, state under pain and penalty of perjury that to the best of my knowledge and belief, the facts set forth in this Petition are true and correct.

Dated: January 11, 2011

Respectfully submitted,

Gloria Trevino Turner

Gloria Trevino Turner

Sworn to before me this
11th day of January 2011

Mehboob Mithani

Notary Public

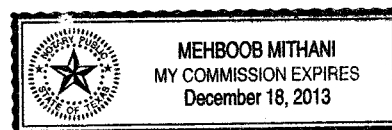


EXHIBIT A

General Psychiatry*Diplomate, American Board of Psychiatry and Neurology*

October 21, 2010

This report is being written at the request of Gloria Trevino, sister of Robert Trevino, and is meant to serve as a review of Mr. Trevino's psychiatric history and symptoms. The purpose is to assess the likelihood that Mr. Trevino was delusional and, as a result, legally incompetent to stand trial in 1995.

The below history is based on interviews with one of his sisters, a letter from another, an interview with the patient and reviews of available records from the V.A. and from TDC.

Psychiatric history:

Robert Trevino is a 64 year old Hispanic male, currently diagnosed with Chronic Schizophrenia and Post Traumatic Stress Disorder (PTSD). His psychiatric symptoms reportedly date from about 1970 while on active duty in the marines in Vietnam, but no treatment was sought until 1992, when he was encouraged to get treatment by his family because of his increasingly bizarre behavior. As reported by the patient and his sister he had a history of getting up at night and patrolling outside the family house with a rifle, expressing fear that his family was in danger and "looking for Vietcong" which began when he returned from Vietnam. He reported visual hallucinations and flashbacks of combat situations and would at times tell his family to "get their gear" and get ready to leave. These symptoms were attributed to PTSD from his combat experiences.

In addition to the above set of symptoms, his sisters report that from sometime in the 1970's after returning home, he also started to express a variety of paranoid and persecutory delusions. He started to express the belief that the government was conspiring with his family business's competitors to put them out of business when some of the family owned land was re-zoned. He insisted to family that government officials had spies at the post office going through his mail and that they had bugged his phone. He reported auditory hallucinations warning him and telling him that he and his family were in danger. He complained to the family of hearing voices warning him that officials were "trying to get rid" of him. He claimed that city officials were trying to overcharge on taxes and utilities in order to harass him. He wrote letters and made trips to Austin to lodge complaints about these conspiracy beliefs with his state representatives, about twice a month for several years.

In addition to information from the family, records from the VA dating from July 1993 to June 1994 reflect severe symptoms of PTSD, but also some evidence of the above outlined paranoia, such as his refusal to see a psychiatrist because "he might be a cousin of Saddam Hussein". His behavior at that time was also documented as "fluctuating"

between "docile and compliant" and "angry and unrealistic". In an outpatient psychiatric clinic note Mr. Trevino is noted to have "themes of anger towards the government." as well as "numerous comments with a paranoid flavor".

Following his arrest in 1995, Mr. Trevino expressed persecutory delusions to his attorney believing that the government was conspiring with juvenile delinquent gang members to have him "eradicated" and sent to prison because of his past political activities. He also expressed the belief that the detective on the case was trying to have him killed. He made a suicide attempt while in jail.

Mr. Trevino is currently diagnosed with Chronic Schizophrenia, paranoid type and PTSD. The diagnosis of Schizophrenia was given in March 2008 after he made a second suicide attempt by hanging, while in prison. At that time he expressed the delusional belief that inmates and security personnel were conspiring to kill him. He has remained in a psychiatric unit and has continued to express paranoid ideation and to have auditory hallucinations. Although recent physician and staff notes indicate that he has improved somewhat with treatment, the fact that Mr. Trevino remains in a psychiatric unit and has not been returned to the general prison population indicates that his level of function remains very low and he is currently totally disabled.

In addition to the above outlined presence of paranoid delusions there are other threads of evidence that Mr. Trevino suffered from Paranoid Schizophrenia, as well as PTSD, beginning at least in the 1980's. Several references are made in the VA records to his disheveled appearance ("unshaven, poorly dressed, clothes need laundering") which is typical of the negative symptoms of Schizophrenia (i.e. lack of motivation for ordinary activities of daily living, neglect of hygiene, social withdrawal). Following his four years of service, he is reported to have been unable to function well enough to work, even in the shelter of a family business. He was isolative, and never married or otherwise connected to a significant other. In short, he exhibited extremely poor psychosocial function dating from the 1970's which is also characteristic of the illness.

Comments and Conclusions:

The question this report attempts to address is whether Mr. Trevino was likely to have been too psychiatrically ill and disconnected from reality to be able to understand the charges against him and assist his attorney in his defense in 1995. At the time he was diagnosed with Post Traumatic Stress Disorder, secondary to his combat experiences. He was in treatment at the VA, but was not diagnosed with, or treated for, psychosis. He has been additionally diagnosed with Chronic Schizophrenia since 2007, with documented paranoid delusions.

Schizophrenia is an illness that typically begins early in life. In men, the mean age of onset is 21.4 years of age. Nine of ten males with Schizophrenia develop the illness before age 30 and only 2% have onset after the age of 35. At the time of Mr. Trevino's trial he was 49 years old. This, together with the above outlined history, speaks to a high

likelihood that he had undiagnosed and untreated Paranoid Schizophrenia at that time. It is therefore also highly likely that the presence of his persecutory delusions interfered significantly with his competence to stand trial and his ability to assist in his defense.

A handwritten signature in black ink, appearing to read 'Karen S. Brown', written in a cursive style.

Karen S. Brown, M.D.

EXHIBIT B

*General Psychiatry**Diplomate, American Board of Psychiatry and Neurology*

January 10, 2011

Re: Robert Rodriguez Trevino

To Whom It May Concern:

I am a psychiatrist who evaluated Mr. Robert Rodriguez Trevino and submitted a report at the request of his sister, Ms. Gloria Trevino Turner.

Mr. Rodriguez Trevino suffers from, and is diagnosed with, both Post Traumatic Stress Disorder and Chronic Schizophrenia. The latter illness has resulted in Mr. Rodriguez Trevino's inability to effectively represent himself in his petition to the court. He has paranoid and persecutory delusions, auditory hallucinations and significant impairment of his cognition and volition, which render him unable to present a clear and coherent history.

Ms. Trevino Turner, his sister, approached me to evaluate her brother's psychiatric status in the hope that his history of delusional symptoms and lack of a psychiatric assessment at the time would re-open his case. She has actively participated in supporting him since his trial and incarceration. She paid for the evaluation and report and consistently provided whatever information was requested. Ms. Trevino Turner appears to be most supportive and involved of Mr. Rodriguez Trevino's family members.

Should you require further information, please contact my office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'K. S. Brown', with a stylized, flowing script.

Karen S. Brown, M.D.

EXHIBIT C



Disabled American Veterans National Service Office

VA Regional Office • 6900 Almeda Road • Room 1033 • Houston, TX 77030
Phone (713) 383-2715 • Fax (713) 383-2719 • www.dav.org



January 11, 2011

To whom it may concern:

I am writing this statement at the request of Mrs. Gloria Trevino Turner in hopes this will permit her "next friend" standing for her incarcerated- Disabled American Veteran brother Mr. Robert Rodriguez Trevino. Mr. Trevino has been incarcerated for approximately fifteen years with the last three years of incarceration Mr. Trevino has been assigned to a psychiatric unit whereas he suffers severely from post-traumatic stress disorder/major depression and paranoid schizophrenia.

I have known Mrs. Turner for ten years in a professional status and in those ten years she has always been in "Care Of" her brothers disability benefits. I have found her to be truly dedicated to the best interest of her brother wherein she has been moved to tears many times speaking of the love and concern she has for her brothers well-being while he is incarcerated which would in my opinion establish "significant relationship" with the real party at interest i.e. Mr. Robert Rodriguez Trevino.

I hope this statement satisfies the burden of establishing Mrs. Gloria Trevino Turner's entitlement to "next friend" standing so that she will continue the fight for relief for her brother a combat decorated veteran who fought the enemies of this great country while serving honorably in the Republic of Vietnam.

If I can be of any assistance in this matter please contact me at your earliest convenience at the above phone number and/or address.

Sincerely,

J. Aaron DeLaughter
National Service Officer
Disabled American Veterans